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FISCAL IMPACT STATEMENT

LS 6964 | **NOTE PREPARED:** Jan 12, 2013
BILL NUMBER: HB 1324 | **BILL AMENDED:**

SUBJECT: Motor Fuels.

FIRST AUTHOR: Rep. Frye R | **BILL STATUS:** As Introduced
FIRST SPONSOR:

FUNDS AFFECTED: X GENERAL | **IMPACT:** State & Local
X DEDICATED
FEDERAL

Summary of Legislation: The bill makes the following provisions regarding clean energy vehicles and natural gas usage as a motor fuel:

Clean Energy Vehicle Preference: The bill increases from 10% to 20% the amount by which the price of a clean energy vehicle may surpass the price of a similarly equipped non-clean energy vehicle for the purpose of determining whether a state agency must purchase or lease the vehicle.

Natural Gas-Powered Vehicle Income Tax Credit: The bill provides an income tax credit for placing into service a natural gas-powered vehicle that has a gross weight of more than 33,000 pounds.

Sales Tax on Alternative Fuels as Motor Fuel: The bill provides for the collection and remittance of the state gross retail tax on alternative fuels. Alternative fuels consist of compressed natural gas (CNG), liquified natural gas (LNG), and propane/butane (commonly referred to liquified petroleum gas or LPG).

Excise Tax on Alternative Fuels as Motor Fuel: The bill provides for the collection and remittance of the Special Fuels tax on alternative fuels.

Motor Carrier Fuel Tax and Motor Carrier Surcharge on the Use of Alternative Fuels: The bill provides for the imposition of the motor carrier fuel tax and surtax by imposing the existing rates on the gasoline gallon equivalents of alternative fuels sold and consumed.

Exclusion from Alternative Fuel Decal Requirement for Natural Gas: The bill excludes natural gas fueled vehicles from the alternative fuel decal law.

Change in Vehicle Weight Limitation for Natural Gas Usage: The bill increases the maximum weight limitation for a vehicle that uses natural gas as a motor fuel by 2,000 pounds.

Effective Date: July 1, 2013.

Summary of NET State Impact: The bill makes several changes to the taxation of alternative fuels. Summaries of the estimated FY 2014 and FY 2015 state revenue impacts by source and distribution is provided in the following table.

Estimated FY 2014 State Revenue by Source and Distribution						
Fund	**Sales Tax**[1]	**Excise Tax**[1]	**Natural Gas Vehicle Tax Credit**[2]	**Motor Carrier Fuel Use & Surcharge** [3]	**Alt. Fuel Decal** [3]	**TOTAL**
Motor Vehicle Highway		$2.3 M		X	X	**$2.3 M**
Highway Road and Street		$0.8 M			X	**$0.8 M**
State Highway Fund				X		
Motor Carrier Reg. Fund				X		
General Fund	$3 M		$0.0			**$3.0M**
Commuter Rail Service	$3,700					**$3,700**
Industrial Rail Service	$900					**$900**
TOTAL	**$3 M**	**$3 M**	**$0.0**			**$6.0 M**

1. The Sales Tax and Excise Tax revenues do not sum due to rounding.

2. Tax credits granted for qualified vehicles placed in service in CY 2014 will likely not impact the state General Fund until FY 2015 when taxpayers reconcile on their 2014 annual tax returns. The revenue loss in FY 2015 from CY 2014 tax credits could total $3.6 M.

3.The revenue amounts from the Motor Carrier Fuel Use Tax and Surtax on alternative fuel as well as the Alternative Fuel Decal exemption for natural gas are indeterminable at this time; however, the funds that will be impacted have been noted.

Estimated FY 2015 State Revenue by Source and Distribution						
Fund	**Sales Tax**[1]	**Excise Tax**	**Natural Gas Vehicle Tax Credit**[2]	**Motor Carrier Fuel Use & Surcharge** [3]	**Alt. Fuel Decal** [3]	**TOTAL**
Motor Vehicle Highway		$1.7 M		X	X	**$1.7 M**
Highway Road and Street		$0.6 M			X	**$0.6 M**
State Highway Fund				X		
Motor Carrier Reg. Fund				X		
General Fund	$2.3 M		($3.6 M)			**($1.3 M)**
Commuter Rail Service	$2,800					**$2,800**
Industrial Rail Service	$700					**$700**
TOTAL	**$2.3 M**	**$2.3 M**	**($3.6 M)**			**$1.0 M**

1. The Sales Tax revenues do not sum due to rounding.

2. Revenue loss from tax credits granted for qualified vehicles placed in service in CY 2014.

3.The revenue amounts from the Motor Carrier Fuel Use Tax and Surtax on alternative fuel as well as the Alternative Fuel Decal exemption for natural gas are indeterminable at this time; however, the funds that will be impacted have been noted.

Clean Energy Preference: The clean energy vehicle preference is estimated to have minimal or indeterminate impacts on expenditures.

Exclusion from Alternative Fuel Decal Requirement; Change in Vehicle Weight Limitation; and Motor Carrier Fuel Tax and Motor Carrier Surcharge: The natural gas exclusion for the Alternative Fuel Decal, the change in the vehicle weight limitation for natural gas, and the Motor Carrier Fuel Tax and Surcharge on the use of alternative fuels each have minimal or indeterminate impacts on revenues.

Sales Tax on Alternative Fuels as Motor Fuel: The imposition of a sales tax on alternative fuels used as motor fuel is estimated to generate revenue in an amount approaching $3 M in FY 2014 and $2.3 M in FY 2015 for the state General Fund.

Special Fuel (Excise) Tax on Alternative Fuels as Motor Fuel: The imposition of a $0.16 per GGE tax on alternative fuels used as a motor fuel is estimated to generate revenue in an amount approaching $3 M in FY 2014 and $2.3 M in FY 2015 for the Motor Vehicle Highway Account and the Highway Road and Street Fund.

Natural Gas-Powered Vehicle Income Tax Credit: The Natural Gas-Powered Vehicle Income Tax Credit could, if fully utilized, reduce state General Fund revenues by up to $3.6 M per year and $10.8 M over three years, the maximum amounts of the credit that would be allowed.

Explanation of State Expenditures: *Clean Energy Preference:* This bill increases the clean energy preference for the purchase of vehicles by state agencies from 10% to 20%. The current preference is not being utilized due to the lack of infrastructure to accommodate clean energy vehicles in the state. The additional expenditures from this provision will depend on the extent that the preference is utilized and the vehicles purchased.

Department of State Revenue (DOR): The DOR would incur some administrative expenses relating to the revision of tax forms, instructions, and computer programs to reflect the new tax credit for natural gas-powered vehicle purchases. The DOR's current level of resources should be sufficient to implement this change.

Explanation of State Revenues: *Sales Tax on Alternative Fuels as Motor Fuel* - This bill provides for the collection and remittance of the 7% state gross retail tax on alternative fuels used as motor fuel. Alternative fuels consist of compressed natural gas (CNG), liquified natural gas (LNG), and propane/butane (LPG).

According to the U.S. Energy Information Administration, annual consumption of CNG, LNG, and LPG is roughly 19 million gasoline gallon equivalents (GGE) per year.

The table below shows the predicted alternative fuel (for transportation) consumption, price, and sales tax impact on CNG, LNG, and LPG. Note that while CNG and LNG consumption is estimated to increase in subsequent years, LPG consumption is expected to decrease over time, as users transition to other alternative fuels. The sales tax impact is the estimated sales tax revenue generated by adding these fuel sales for transportation. This amount would be added to the sales tax that would normally be collected, assuming alternative fuel consumption has no impact on gasoline consumption.

Estimated Consumption and Price on Alternative Fuels							
FY	**CNG Consumption (GGE)**	**CNG Fuel Price ($ per GGE)**	**LNG Consumption (GGE)**	**LNG Fuel Price ($ per GGE)**	**LPG Consumption (GGE)**	**LPG Fuel Price ($ per GGE)**	**Sales Tax Impact**
2014	4.5 M	$1.95	1.4 M	$1.29	13.2 M	$2.47	**$3 M**
2015	5.0 M	$2.03	1.5 M	$1.34	8.0 M	$2.49	**$2.3 M**

Sales tax is distributed primarily to the General Fund (99.848%). However, the Commuter Rail Service Fund receives 0.123% of sales tax revenues, and the Industrial Rail Service Fund receives 0.029% of the sales tax revenues.

Noncompliance with the sales tax provision results in a Class B Felony. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the State General Fund (from court fees) would increase. The maximum fine for a Class B felony is $10,000. However, any additional revenue would likely be small.

Excise Tax on Alternative Fuels as a Motor Fuel - The bill imposes an excise tax of $0.16 per GGE on alternative fuels used as motor fuel. This tax is collected and paid by the retailer, who retains 1.6% of the amount collected as reimbursement for costs associated with the collection of the tax. The revenues from this tax are distributed to the Motor Vehicle Highway Account and the Highway Road and Street Account. Exempt purchasers include government entities, public transportation corporations, public transit departments, and passenger carriers.

The special fuel excise tax on alternative fuels is estimated to generate $3 M in FY 2014 and $2.3 M in FY 2015. This estimate does not account for potential exempt purchasers, as specific information on the number of exempt alternative fuel users in Indiana is not available at this time.

Noncompliance with the excise tax provision results in a Class D felony. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony is $10,000. However, any additional revenue would likely be small.

Natural Gas-Powered Vehicle Income Tax Credit - The tax credit could reduce revenue to the state General Fund by $3.6 M per year in FY 2015, FY 2016, and FY 2017.The revenue loss from credits granted in tax year 2014 could begin in FY 2014, if taxpayers change their quarterly estimated payments in the first half of 2014.

The bill establishes a nonrefundable tax credit for placing a qualified Class 8 vehicle (over 33,000 lbs.) into service after December 31, 2013, and before January 1, 2017. The credit is equal to 50% of the differential between the purchase price of a gasoline or diesel vehicle and the purchase price of a natural gas vehicle that is similarly equipped and of the same make and model. The total amount of credits that may be granted is capped at $3.6 M per fiscal year and $10.8 M for all fiscal years. Assuming the maximum credit is granted for each purchase, the tax credit could subsidize the purchase of 200 new natural gas Class 8 vehicles in each of the three years the credit is in effect. Data showing the historic sales of natural gas Class 8 vehicles in Indiana are not available at this time. However, according to the U.S. Energy Information Administration, less than 1,000 natural gas heavy duty vehicles were sold in the U.S. in 2010, which is less than 0.3% of the total heavy duty vehicles sold during the year.

The credit is nonrefundable. Excess credits may be carried over for up to six years following the year the qualified vehicle is placed into service. Excess credits may not be carried back. The credit is not assignable or transferable. The credit may be claimed against the corporate or individual adjusted gross income tax, insurance premiums tax, or financial institutions tax.

Qualified vehicles include vehicles that accept both liquified natural gas (LNG) and compressed natural gas (CNG). According to the National Energy Policy Institute, the average cost differential for a similarly equipped gasoline or diesel heavy duty truck and one that utilizes natural gas is between $30,000 and $40,000 for spark-ignited engines and $70,000 for a compression-ignited engine that only allows for use of LNG. The Energy Information Administration states that the cost differential for Class 7 and 8 trucks is between $49,000 and $86,125 per vehicle. Both sources indicate that the level of additional cost is most attributable to the size and volume of the vehicle's CNG or LNG storage tank, which may be sized to match the necessary daily driving range.

While there is a wide disparity amongst the various cost differentials involved in purchasing a natural gas heavy duty truck, the tax credit is capped at $18,000, which effectively only covers a cost differential of $36,000 per vehicle.

Motor Carrier Fuel Tax on Natural Gas as Motor Fuel: The bill provides for the imposition of the Motor Carrier Fuel Use Tax (MCFUT) upon alternative fuels by imposing the existing rates on the gasoline gallon equivalents of alternative fuels consumed by motor carriers. MCFUT revenues are distributed into the State Highway Fund.

MCFUT revenues are based on the amount of motor fuel bought outside of Indiana but consumed by a carrier in its operations on Indiana highways. The MCFUT does not apply to that portion of motor fuel used to propel equipment mounted on a motor vehicle. This is also known as the proportional use credit and includes vehicles such as cement mixers, sanitation trucks, dump trucks, etc.

Under the bill, motor carriers that utilize alternative fuel will be required to submit quarterly tax reports and submit them to the Department of Revenue's Motor Carrier Services Division. The penalties for lat submission are as follows:

- A $50 penalty, or 10% of tax owed, whichever is greater, is due on any late remittance.
- A $50 penalty is due for any late report when no remittance is due.
- A carrier that fails to file a quarterly report is subject to a civil penalty of $300 for each report that is not filed.

In Indiana, alternative fuel usage by motor carriers has been tracked by the Department of Revenue and has, to date, been marginal. Therefore, the imposition of the MCFUT on these fuels will likely net a very small amount.

Motor Carrier Surcharge on the Use of Alternative Fuel: The bill will impose an $0.11 per GGE surcharge on alternative fuel. The current definition is expanded to include gallons of gasoline or special fuel as well as GGE of an alternative fuel. The revenues from this surcharge are distributed to the Motor Carrier Relief Fund (9%), State Highway Fund (45.5%), and Motor Vehicle Highway Account (45.5%). The surcharge does not apply to that portion of motor fuel used to propel equipment mounted on a motor vehicle (proportional use credit). The penalties for noncompliance with the surcharge are the same as those for noncompliance with the MCFUT.

In Indiana, alternative fuels used by motor carriers has been tracked by the Department of Revenue and has, to date, been marginal. Therefore, the imposition of the motor carrier surcharge on these fuels will likely net a very small amount.

Exclusion from Alternative Fuel Decal Requirement for Natural Gas: The bill excludes natural gas-fueled vehicles from the alternative fuel decal law. Decals, which range in price from $100 to $500 per decal, are administered by the Department of Revenue and are tracked by vehicle category. In CY 2012, the Department issued 1,031 decals, generating $264,594 in revenue. Due to not tracking decals by alternative fuel type, the fiscal impact of the exclusion of natural gas vehicles from the decals is indeterminable.

Explanation of Local Expenditures: *Penalty Provisions:* A Class B felony is punishable by a prison term ranging from 6 to 20 years depending upon mitigating and aggravating circumstances. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor, depending upon mitigating and aggravating circumstances.

The average expenditure to house an adult offender was $18,582 in FY 2012. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately $3,234 annually, or $8.86 daily, per prisoner. The average length of stay in DOC facilities for all Class B felony offenders is approximately 3.7 years. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten months.

Explanation of Local Revenues: Local units may receive up to $1.4 M in FY 2014 and $1.1 M in FY 2015 in additional transportation revenues from the bill through the Motor Vehicle Highway and Highway Road and Street Fund.

Penalty Provision: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

State Agencies Affected: Indiana Department of Administration, Indiana Department of State Revenue, Indiana Department of Transportation.

Local Agencies Affected: Local highway departments, trial courts, local law enforcement agencies.

Information Sources: Iona Hallstrom, Indiana Department of Revenue, ihallstrom@dor.in.gov; Indiana Department of Revenue Intrastate Motor Carrier Information Handbook; National Energy Policy Institute Working Paper - *What Set of Conditions Would Make the Business Case to Convert Heavy Trucks to Natural Gas? - a Case Study (http://nepinstitute.org/)*; U.S. Energy Information Administration (www.eia.gov/); Alternative Fuels Data Center (www.afdc.energy.gov/); Nathaniel Day, Indiana Department of Administration, 317-232-3030; *US Department of Energy Clean Cities Alternative Fuel Price Report, October 2012;* Energy Report - LPG, Texas Comptroller of Public Accounts (http://www.window.state.tx.us/specialrpt/energy/nonrenewable/lpg.php).

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<u>Definitions:</u> *Gasoline Gallon Equivalent* - A gasoline gallon equivalent (GGE) is the amount of natural gas that produces the same number of British Thermal Units (BTUs) as a gallon of gasoline. A GGE of compressed natural gas is 126.67 cubic feet of CNG, a GGE of liquified natural gas is 1.52 gallons of LNG, and a GGE of LPG/Propane is 1.35 gallons of LPG.